

INTERIM IRM PROCEDURAL UPDATE

DATE: 11/13/2009

NUMBER: WI-21-1109-0945

SUBJECT: Indemnity Agreements

AFFECTED IRM(s)/SUBSECTION(s): IRM 21.3.4

CHANGE(s):

IRM 21.3.4.7.9 - Provide clarification to Indemnity Agreements procedures and add internal link for point of contact on Affidavit of Non-receipt.

21.3.4.7.9 Indemnity Agreements

- (1) The Government Losses in Shipment Act (GLISA), 40 U.S.C. 17301-17309, authorizes the issuance of indemnity agreements by the Bureau of Public Debt (BPD) to replace negotiable securities or instruments, such as cashier's checks, money orders, Treasury Bonds, etc. if the taxpayer has actually paid the money. Most situations occur in TACs when the taxpayer presents payment for the tax and it is lost by an IRS employee or by UPS in route to the Submission Processing Center. TAC employees are responsible for notifying the taxpayer of the loss and providing assistance in recovering the payment. If form of payment was made by cashier's checks, money orders, Treasury Bonds, etc., an indemnity agreement may need to be signed to assist the taxpayer in recovering the lost payment. In addition, follow procedures in IRM 21.3.4.7.5, Loss or Shortage of Payment. Replacement for the loss should be obtained without an indemnity agreement if possible. Many taxpayers use postal money orders that can be traced and a replacement can be obtained by completing Postal Form 6401. A replacement is issued within three weeks without an indemnity agreement. If form of payment was by personal check which has not been cashed, advise taxpayer to stop payment on check and reissue new payment. If form of payment was by personal check which has not been cashed, advise taxpayer to stop payment on check and reissue new payment. Indemnity agreements are not provided for personal checks
- (2) Commercial banks are requesting signatures on indemnity for cashier's checks. These requests are sent for replacement cashier's checks that were not received by IRS or lost by IRS and have not been submitted for payment to the issuing institution. The bank will not issue a replacement check until an indemnity agreement is issued by BPD. Refer to IRM 21.5.7.4.7.7 for further guidance.

(3) TACs that receive indemnity agreement requests from taxpayers should forward the request to the Area Director, FA, for approval. The request should include the following information:

- Taxpayer name and TIN, or ITIN Date the instrument was issued
- Amount of the Instrument
- The financial institution name and address
- Address where to mail the replacement check. (Usually the lockbox of the center that process your payments - See IRM 21.3.4.7.3.6)
- Documents provided by the taxpayer or third party
- The efforts to obtain a replacement
- Written request for an indemnity agreement from the financial institution.
- A copy of the negotiable security or instrumen

(4) Inform the taxpayer that it will take 60 to 90 days to process an indemnity agreement. Under no circumstances will it be reissued payable to the taxpayer.

(5) Once a formal request for an indemnity is received from the bank the request should be submitted to the Losses and Shortages Analyst at:

Internal Revenue Service
11601 Roosevelt Boulevard
Attention: Losses and Shortages Analyst
POD Central 1 DP N-111
Philadelphia, PA 19154

(6) In rare cases where the TP repaid the funds/payment and the financial institution will not issue a replacement check or money order unless they have an indemnity agreement, an affidavit of non-receipt may be more appropriate. Refer to IRM 21.5.7.4.7.7, Cashier's Check or IRM 21.5.7.4.7.8, Money Orders for further guidance.